

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**UNITED STATES OF AMERICA,**

*Plaintiff,*

**vs.**

**CELEDONIO RIOS-NERI,**

*Defendant.*

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**CAUSE NUMBER:  
SA- 18-CR-0731-OLG**

**ORDER REGARDING DEFENDANT’S COMPETENCY**

On October 23, 2019, the Court held a competency hearing pursuant to 18 U.S.C. § 4247(d), at which Defendant, his counsel, and counsel for the Government appeared. Previously, the Court had ordered Defendant’s competency be evaluated pursuant to 18 U.S.C § 4247. The forensic psychologist’s initial report [#16] had concluded that Defendant was not competent at that time, and thus on May 3, 2019, Defendant was committed to the custody of the Bureau of Prisons (BOP) for restoration. After receiving the most recent report from the forensic psychologist [#21], the Court set the case for a competency hearing.

A defendant is competent if he “has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has rational as well as factual understanding of the proceedings against him.” *Dusky v. United States*, 362 U.S. 402, 402 (1960). The Court must determine whether a preponderance of the evidence establishes that Defendant is competent. *See* 18 U.S.C. § 4241(d). The forensic examiner’s report concluded that Defendant has been restored to competency. (Report [#21], at 9.) And a Certificate of Competency [#21] has been filed, confirming BOP’s position that Defendant meets the *Dusky* standard. At the hearing, counsel for Defendant stated that he had discussed the report and its conclusion with his client, and he and his client concur that Defendant is competent to proceed to trial. Thus,

**IT IS THEREFORE ORDERED** that Defendant is **DEEMED COMPETENT** and the case is **RETURNED** to the District Court for further proceedings.

**IT IS SO ORDERED.**

SIGNED this 23rd day of October, 2019.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE